

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>DERRICK JUSTIN CHOATE,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Case No. 2:16-cv-00069</b>
<b>V.</b>	)	
	)	<b>Judge Sharp</b>
<b>PHIL ARMS,</b>	)	<b>Magistrate Judge Brown</b>
	)	
<b>Defendant.</b>	)	
	)	
	)	

**ORDER**

Plaintiff Derrick Justin Choate, an inmate at the Putnam County Jail (“Jail”), filed a Complaint against Defendant Phil Arms, a captain with the Putnam County Sheriff’s Department in the Jail. (Docket No. 1). Plaintiff alleges that Defendant assaulted and used excessive force on him while Plaintiff was handcuffed and complying with verbal commands from the staff. Plaintiff then filed a Motion for Restraining Order. (Docket No. 17). In that Motion, Plaintiff asserts that he fears for his safety because Defendant allegedly threatened Plaintiff’s life during the incident that led to this suit. Plaintiff states that he requested to be moved to another facility, but Jail administrators denied his request because he has not been sentenced yet. Furthermore, Plaintiff asserts that correctional officers who work for and are friends of Defendant have “singled [him] out[,] . . . threatened [him] with lockdown and loss of privileges for no reason[,]” and have enforced arbitrary rules against him, attempting “to make [his] living conditions harder.” (Docket No. 17 at 1).

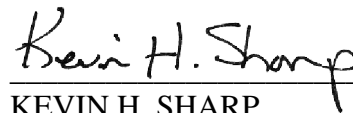
Defendant filed a Response to Plaintiff’s Motion for Restraining Order, in which he states Plaintiff’s ineligibility for transfer while awaiting sentencing and denies Plaintiff’s allegations of

having been singled out and threatened. (Docket No. 23). Defendant also states that the administrator of the Jail met with and advised Plaintiff that he would not be disciplined if he did not cause problems. At the time of Defendant's filing, Defendant asserts that Plaintiff had not created problems and, therefore, had not been disciplined.

Magistrate Judge Brown has issued a Report and Recommendation ("R & R") on Plaintiff's Motion. (Docket No. 28). Plaintiff has filed no objections even though the Court advised him that he needed to file any objections within fourteen days of service. Magistrate Judge Brown has recommended that "the motion for preliminary injunction requiring the movement of the Plaintiff be denied and that any appeal not be certified as taken in good faith." (Docket No. 28 at 5-6). Having considered the matter as required by Fed. R. Civ. P. 72, the Court agrees with the recommended disposition. Whether the Court construes Plaintiff's Motion as a motion for a temporary restraining order or a preliminary injunction requiring Plaintiff's transfer to another facility, the R & R is neither clearly erroneous nor contrary to law. Plaintiff's request for a restraining order is denied and Plaintiff, absent exceptional circumstances, may not be moved to another facility while he awaits sentencing.

The R & R, (Docket No. 28), is hereby ACCEPTED and APPROVED and Plaintiff's Motion for Restraining Order, (Docket No. 17), is DENIED.

It is SO ORDERED.

A handwritten signature in black ink that reads "Kevin H. Sharp". The signature is written in a cursive, slightly slanted style. Below the signature is a horizontal line.

KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE